

Temporary Guidelines for Implementation of the Local Rules
Regarding Motions for Relief from Stay in Cases Assigned to Judge Clark

1) Motions filed prior to 10/17/2005 are treated under the old Local Rules.

2) Motions filed after 10/17/2005, as to exempt residences or exempt vehicles, require use of the new forms. As to motions which do not conform to the Local Rules, orders will be entered denying the motion without prejudice, unless the motion is amended within 10 days to conform to the new forms.

3) If the parties have reached an agreement, as to motions with respect to exempt residences or exempt vehicles, the Local Rules require the submission of an agreed order at least five days before the hearing. If you attempt to submit an agreed order after five days before the hearing, you may anticipate that the matter will be called for hearing on the date set, and will be reset to the next hearing date. At that hearing, all signatories to the agreed order shall be present.

4) Motions filed after 10/17/2005, other than as to exempt residences or exempt vehicles, require compliance with LR 4001(a), including a certificate of conference, the negative notice language set forth in LR 4001(a)(3), a hearing date obtained from the court's web page, and, as to foreclosure on improved real property, documents evidencing the debt and lien perfection, and a payment history, including an explanation of transaction codes. As to motions which do not conform to the Local Rules, orders will be entered denying the motions without prejudice unless they are amended within 10 days to conform to the Local Rules.

5) You may anticipate that, beginning in January, 2006, the court may no longer enter orders giving the parties an opportunity to amend motions for relief from stay that do not conform to the Local Rules. Instead, the court may deny the motions.

6) The new Local Rules require that, in an evidentiary hearing, counsel are required to certify that good faith settlement negotiations have been held or why they haven't been held, that witness and exhibit lists were exchanged at least two days prior to the hearing, and the anticipated length of the hearing. If witness and exhibit lists have not been exchanged, you may anticipate that an evidentiary hearing will be set for another day. If the court determines that the parties' failure to exchange witness and exhibit lists at least two days prior to the scheduled hearing date was in bad faith, the court will likely impose sanctions, which may include exclusion of witnesses and exhibits not listed, and/or payment by the attorney or party of the other side's legal fees for appearing at the hearing without having exchanged witness and exhibit lists.